

IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

**Shri Manish Borad, Accountant Member
Shri Sonjoy Sarma, Judicial Member**

**I.T.A. No. 512/Kol/2024
Assessment Year: 2014-15**

**DCIT, Circle 4(1), Kolkata,
O/o Joint Commissioner of Income Tax,
Circle 4(1), Kolkata,
8th Floor, P-7, Chowringhee Square,
Aayakar Bhawan, Kolkata – 700069 Appellant**

vs.

**M/s Chengmari Tea Co. Ltd.,
37, S B Towers, Shakerspeare Sarani,
Kolkata – 700017
[PAN: AABCC0672Q] Respondent**

Appearances by:

Assessee represented by : Shri Sunil Surama, AR
Department represented by : Shri P.P. Barman, Addl. CIT

Date of concluding the hearing : 03.09.2024
Date of pronouncing the order : 05.09.2024

ORDER

Per Sonjoy Sarma, Judicial Member:

This appeal filed by the Revenue pertaining to the Assessment Year (in short 'AY') 2014-15 is directed against the order passed u/s 250 of the Income Tax Act, 1961 (in short the 'Act') by the Ld. Commissioner of Income Tax, (for short "the CIT") dated 28.02.2023 arising out of Assessment Order dated 30.12.2019, passed under Section 263/143(3) of the Act.

2. The Revenue has raised the following grounds of appeal:

"1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) NFAC has erred in allowing the appeal of the assessee for statistical purposes and the basis of the order of the Ld. ITAT where the relevant order u/s 263 was wrongly quashed by ITAT.

2. The appellant craves leave to make any amend, addition, alternation, modification etc. of the grounds either before the appellate proceedings, or in the course of appellate proceedings."

3. At the time of hearing, the Ld. AR fairly stated that on 30.12.2019 an assessment order was passed against the assessee u/s 263/143(3) of the Act based on the revisionary order dated 29.03.2019 passed by the Ld. Pr. CIT.

4. The assessee, disagreeing with the assessment, filed an appeal before the Ld. CIT(A). The Ld. CIT(A), however allowed the appeal of the assessee. Unjustified with the order of the Ld. CIT(A), revenue is in appeal before this Tribunal. During the intervening time, the revisionary order passed by the Ld. PCIT dated 29.03.2019 was set aside by the Tribunal through an order dated 31.01.2020. The Ld. AR stated that since the Tribunal has set aside the Ld. PCIT's revisionary order, the assessment order that was framed based on the direction of Ld. PCIT no longer has a legal basis, consequently, appeal filed by revenue challenging the impugned order is rendered infructuous.

5. On the other hand, the Ld. DR could not controvert the fact.

6. We after hearing the submission of the parties and perusing the material available on record, we note that since the Tribunal has already set aside the order of the Ld. PCIT passed u/s 263, therefore, the assessment order framed on direction of Ld. PCIT and impugned order passed by Ld. CIT(A) has no legal basis. Therefore, appeal filed by the revenue against the impugned order is rendered as infructuous. Accordingly, appeal of the revenue is hereby dismissed.

7. In the result, appeal of the Revenue is dismissed.

Kolkata, the 5th September, 2024.

Sd/-
[Manish Borad]
Accountant Member

Sd/-
[Sonjoy Sarma]
Judicial Member

Dated: 05.09.2024.
AK, PS

Copy of the order forwarded to:

- 1 M/s Chengmari Tea Co. Ltd
2. DCIT, Circle 4(1), Kolkata,
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches